

the benefit of full discovery. The Act provides that if the parties to an arbitration fail to provide the necessary information for resolution of the issues the state commission may rely "on the best information available to it". § 252(b)(4)(B). In some instances, the Commission will make adjustments to the costs submitted by GTE to conform them more closely to proper TELRIC methodologies. In others, the Commission will use Hatfield Cost Model outputs to set interim rates. The Commission will also adopt other tariffed rates, agreed upon compensation arrangements or FCC default rates as proxies for rates that cannot be set accurately with the data presented by the parties. The parties should prepare an interconnection agreement that incorporates the rates reflected in Attachment B to this Arbitration Order entitled "Unbundled Network Elements - Interim Rates."

4. What rates are appropriate for transport and termination of local traffic?

GTE's position is that rates for transport and termination should be based on each entity's own costs. GTE proposes use of its interstate access rates. However, GTE has agreed to a Bill and Keep compensation arrangement for transport and termination of local traffic only, presuming approximately equal traffic on the two networks.

AT&T proposes that the parties use a Bill-and-Keep mechanism for at least the first nine months after AT&T begins providing basic local service to end users. Bill-and-Keep could be maintained after the initial period unless there is a significant and continuing disparity in the levels of traffic terminated on the two networks.

OPC proposes use of the FCC proxy default values as evidence of reasonable rates for transport and termination of local traffic. OPC takes no position on the issue of a Bill-and-Keep mechanism.

The Commission agrees with the parties that a Bill-and-Keep mechanism, at least initially, is a reasonable resolution of this issue. The parties shall prepare a provision to implement a Bill-and-Keep compensation method for transport and termination of local traffic for an initial period of twelve months, with a 10 percent threshold. The parties shall include a methodology for determining the comparative levels of traffic on the two networks during the twelve months. Should the parties find that a periodic true-up is required, or that Bill-and-Keep is not appropriate, the parties should apply GTE's interstate rates. For dedicated transport the applicable rates would be the Interstate Dedicated Switched Transport rates. For common transport the applicable rates would be the Interstate Direct Trunked Transport Rates. The parties should also include a provision for alternative dispute resolution in the event of disputes that cannot be resolved by reference to these rates.

- 5. Should Bill-and-Keep be used as a reciprocal compensation arrangement for transport and termination of local traffic on a temporary or permanent basis?**

See Issue 4, *supra*.

- 6. What method should be used to price interim number portability and what specific rates, if any, should be set for GTE?**

GTE's position is that GTE should recover its total costs for providing interim number portability (INP), "and that its costs should be determined based on the network in place today, and allowing for capital, transport and termination, and opportunity and investment costs." GTE proposes that the Commission adopt the specific rates presented by GTE.

AT&T argues that interim number portability should be priced according to FCC pricing principles to ensure that costs are allocated on a competitively neutral basis.

OPC agrees with AT&T that interim number portability pricing should be on a competitively neutral basis in compliance with the Act. Both AT&T and OPC cite to the FCC's pending proceeding and order: ***In the Matter of Telephone Number Portability***, Docket 95-116, Order adopted June 27, 1996.

GTE has presented no evidence of what the costs of implementing INP will be. The Commission finds that recovery of the costs for INP should be made in a competitively neutral manner from all LSPs. See § 251(e)(2). Assigning 100 percent of the costs to either party would be inequitable. AT&T and GTE should submit to this Commission their proposed rates for INP solutions along with supporting documentation including cost data, methodology description, assumptions and rationale. In addition, the parties should submit a proposed timeline for implementation of each of the solutions approved by the Commission in this Arbitration Order (RCF, DID, route indexing - DN-RI and RI-PH, and LERG Reassignment). The parties shall submit proposed rates for these elements once the INP solutions become operative. The proposal must include the underlying assumptions, rationale, and supporting workpapers and any other documentation on which the proposal is based.

7. What method should be used to price collocation?

Prices for collocation are subject to the same dispute regarding methodology as other unbundled network elements. See Issue 3, *supra*. A repetition of that discussion here is unnecessary.

The Commission finds that, until adequate costing studies are available, collocation should be priced on an individual case basis (ICB). The ultimate goal should be to develop standardized pricing that is competitively neutral. However, until the market has developed with GTE

acquiring experience and collocation data, ICB pricing will enable GTE to accommodate new entrants. The Commission finds that instituting ICB pricing for collocation is in the public interest in that it will avoid delay in obtaining the data necessary to produce well-documented standard prices. The companies should submit for approval, as part of the interconnection agreement, provisions for general terms and conditions regarding collocation.

The parties shall submit their proposed rates for collocation no later than December 31, 1996. The proposal must include the underlying assumptions, rationale, and supporting workpapers and any other documentation on which the proposal is based.

8. What is the proper way to charge for access to poles, ducts, conduits and rights-of-way?

GTE's position is that if a state (or GTE's tariff) regulates these kinds of attachments, then the state regulations or tariff should apply. The FCC has not yet promulgated rules on this subject. GTE recommends that any rate for attachments be imposed subject to a "true up" once lawful rates are established.

AT&T argues that prices must be set at TELRIC, be nondiscriminatory, and be imputed into GTE's own local service rates. Prices for pathway facilities should be effective for the term of the Interconnection Agreement.

OPC advocates the use of the FCC proxy default rates as emergency interim rates.

Costing studies that the Commission considers adequate for establishing TELRIC-based prices are not available at this time. Because GTE is currently providing access to its outside plant facilities for cable

television (CATV) providers, the Commission finds that the current rates for CATV access to poles, ducts, conduits and rights-of-way are acceptable surrogates for providing the same access to AT&T. AT&T should pay GTE the same prices for access to outside plant facilities, including the same administrative fees, that CATV companies currently pay. The parties should prepare an interconnection agreement provision that incorporates these rates.

9. What GTE services should be required to be made available for resale at wholesale rates?

GTE has agreed to make its retail services available on a wholesale basis except for below-cost services, promotional services, nonrecurring charges, ICB services, access services, operator services and directory assistance services where no discount applies. GTE does not believe its basic local residential and business services should be available for resale as GTE claims they are below-cost services.

AT&T argues that GTE services available for resale should include all services offered at retail to end users, including promotional (more than 90 days), proprietary, enhanced, grandfathered, packaged, individual customer based, contracted and sunsetted services.

OPC agrees with AT&T that the competitive environment requires that all services be made available for resale. OPC argues that GTE has presented no evidence to support its contention that offering certain of its services for resale would impair network integrity or be economically infeasible.

The Commission is persuaded that the goal of a competitive environment, as well as the plain language of the Act, require GTE to make available for resale at wholesale rates all services it provides at retail

to subscribers who are not telecommunications carriers. The FCC Order makes it clear that promotions of more than ninety days, below-cost services, grandfathered services, contracted and customer-specific services must be made available for resale. FCC Order ¶¶ 871, 948, 956, 968. Short-term promotions of less than ninety days must also be made available for resale but should not be subject to the wholesale discount. The Commission finds that GTE must make available for resale all the services it provides at retail to noncarrier telecommunications subscribers. The Commission finds that GTE need not offer a discounted wholesale rate for promotions of less than ninety days duration.

10. Should GTE be required to offer for resale at wholesale rates services to the disabled, including special features of that service such as free directory assistance service calls, if that service is provided by GTE?

GTE's position is that mandated social programs that provide for discounts or special rates are the responsibility of the CLEC (competitive local exchange company). Further, it is the CLEC's responsibility to verify and document its own customer's status.

AT&T argues that GTE must make each of its retail service offerings available for resale without unreasonable or discriminatory conditions or limitations, including wholesale rate services for the disabled.

OPC agrees that these services should be available for resale without restriction and points out that they are not exempted by the Act or by the First Report and Order. OPC states that the wholesale price should reflect the retail price even if discounted less the avoided costs of offering this type of service.

The Commission finds that GTE should make available for resale services for the disabled, including free directory assistance, without

restriction. § 251(c)(4)(A). However, the Commission finds that no discount should be applied to these services.

11. What resale restrictions should be permitted, if any?

GTE's position is that AT&T should be prohibited from "cross-class selling," i.e., reselling a particular service to customers not of the class for whom the service was designed. GTE also argues that below-cost services, promotional services, nonrecurring charges, ICB services, access services, operator services, and directory assistance services should not be made available for resale.

AT&T argues that GTE must make each of its retail service offerings available for resale without unreasonable or discriminatory conditions or limitations.

OPC's position is that the only proper restrictions on resale are those to prevent cross-class restrictions on resale of residential and low income customer services to business class or nonqualifying customers.

The Act prohibits unreasonable or discriminatory restrictions on resale of services. The Commission finds that the only proper restrictions on resale are those to prevent cross-class restrictions on resale of residential and low income customer services to business customers or nonqualifying customers. § 251(c)(4); FCC Reg. §§ 51.603, 51.609. Special restricted educational services should be restricted to eligible educational institutions as well.

12. What is a reasonable period for advance notification of new services?

The parties have reached agreement on this issue. Their agreement is in Attachment C to this Arbitration Order, Stipulation Concerning Advance Notice of Network and Technology Changes, Price Changes, and Introduction of Modification of Services.

13, 14 and 15. Should GTE be required to offer public coin pay phone, semipublic pay phone, and COCOT coin and COCOT coinless lines to AT&T at wholesale rates?

GTE's position is that these services do not come under the category of the types of services it must offer for resale at wholesale rates. GTE offers to provide COCOT coin and coinless line services under terms of applicable tariffs.

AT&T argues that the services that independent public pay phone providers obtain from GTE are telecommunications services which should be available to telecommunications carriers at wholesale rates.

Section 251(b)(1) of the Act states that a LEC is under an obligation not to prohibit the resale of its telecommunications services. It further requires an incumbent LEC to provide for resale "any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers." § 251(c)(4)(A). The Commission finds that GTE must offer public coin pay phone, semi-public pay phone, and COCOT coin and COCOT coinless lines to AT&T for resale. Services that GTE does not offer at retail are not subject to a wholesale discount.

16. Should each and every retail rate have a corresponding wholesale rate?

GTE makes essentially the same argument made for Issue 9, i.e., GTE is willing to make available retail services on a wholesale basis except for below-cost services, promotional services, nonrecurring charges, ICB services, access services operator services and directory assistance services where no discount applies.

AT&T's position is that wholesale pricing structure should mirror GTE's retail pricing structure, as, for example, in volume discounts, flat or measured charges, etc.

OPC's position is that GTE should establish a wholesale rate for every retail rate based on avoided costs. OPC proposes that, in the interim, a resale discount can be used to approximate avoided costs.

This issue is resolved by the Commission's findings on Issues 1 and 9.

- 17. Should GTE be required to route operator services and directory assistance (OS and DA) calls to AT&T's platforms where AT&T purchases resold services under Section 251(c)(4) or state law?**

See Issue 18, *infra*.

- 18. Should GTE be required to route operator services and directory assistance (OS and DA) to AT&T's platforms where AT&T purchases unbundled network elements under Section 251(c)(3) or state law?**

GTE's position is that it is not required to unbundle portions of OS/DA that are not sold separately at retail. GTE states that it will provide those aspects of OS/DA that it currently offers at retail along with local service at just and reasonable rates for its avoided costs. GTE argues that AT&T tries to avoid this issue by seeking OS/DA as an unbundled item, which would require customized routing.

AT&T's position is that GTE is required by the Act to unbundle the functionalities for OS and DA in connection with resold services, to the extent technically feasible, citing § 251(c)(4) and FCC Order ¶ 536. AT&T argues that GTE must prove to the state commission that customized routing in a particular switch is not technically feasible. FCC Order ¶ 418.

The FCC Order, ¶ 536, requires incumbents to provide customized routing, to the extent technically feasible, including routing to a competitor's operator services or directory assistance platform. GTE has agreed to unbundle its OS and DA services. See Attachment C (Stipulation Concerning Operator Systems). The Commission finds that GTE should also

provide customized routing. The Commission established a schedule for SWBT to provide customized routing in Case No. TO 97-40/67⁴; the Commission finds that GTE should follow the same schedule: GTE shall provide customized routing on switches with the capability and capacity starting March 1, 1997, with complete implementation on those switches by June 30, 1997 for resold and unbundled services. For switches lacking the existing capacity/capability, GTE must develop alternative forms of customized routing which shall be implemented by December 31, 1997.

19. Should GTE be required to provide access to its directory assistance database so that AT&T may provide its customers with AT&T branded directory assistance?

GTE's position is that Section 222(e) restricts the obligations of the ILEC to providing subscriber lists for the purposes of publishing only.

AT&T argues that GTE must provide access to its OS and DA databases upon request, including access to read the database and to enter AT&T customer data, citing § 251(c)(3) and FCC Order ¶ 538.

OPC's position is that a unified directory assistance database is necessary to maintain a fully integrated telephone network. OPC argues that if a new entrant does not have access to the incumbent directory database or its customers are not part of the incumbent's database, then the new entrant's service will be considered inferior.

The Commission finds that AT&T's position is correct. GTE must permit AT&T access to its DA database as required by the FCC Order.

⁴Case No. TO-97-40, *AT&T Communication's Petition for Arbitration to Establish Interconnection Agreement with SW Bell*; consolidated with Case No. TO-97-67, *MCI's Petition for Arbitration and Mediation with Southwestern Bell Telephone*.

20. Should GTE be required to provide directory listing information to AT&T via electronic data transfer on a daily basis so that AT&T may update its directory assistance database and provide its customers with AT&T branded directory assistance?

GTE's position is that Section 222(e) restricts the obligations of the ILEC to providing subscriber lists for the purposes of publishing only.

AT&T's position is that the quality of access to the directory assistance database as a network element must be equal to that provided by GTE to itself, citing to § 251(c)(3); and FCC Order ¶¶ 312-316, 523-525.

For the Commission's findings, See Issues 45, 46 and 47, *infra*.

21. Should GTE be required to accommodate AT&T's branding requests concerning operators and directory assistance?

GTE's position is that its obligations extend to selling its existing services, and not creating new ones.

AT&T requests that these services be branded in the limited situations where GTE will provide OS and DA to AT&T customers. "[W]here operator, call completion, or directory assistance service is part of the service or service package an incumbent LEC offers for resale, failure by an incumbent LEC to comply with reseller branding requests presumptively constitutes an unreasonable restriction on resale." § 251(c)(4); see also FCC Order ¶ 971.

The Commission finds that GTE should accommodate AT&T's branding requests and provide unbranding where rebranding is technically infeasible. GTE should begin performing the necessary software upgrades to allow rebranding in the reseller's name, and utilize the customized routing and separate trunk group method in the interim. In addition, unbranding for

OS and DA calls handled by live operators should be provided in any instances where rebranding is not technically feasible.

Certain other branding issues have been resolved by the parties. See Attachment C (Stipulation Concerning Repair Calls; Stipulation Concerning Branding Issues).

22. Should GTE make secondary distributions of directories to AT&T's customers without charge?

The parties have resolved this issue. See Attachment C (Stipulation Concerning Directory Issues).

23. How should PIC changes be made for AT&T's local customers and should GTE identify PIC charges separately?

GTE originally took the position that it should be permitted to continue the industry process of updating PIC (primary interexchange carrier) changes for AT&T customers upon receipt of an electronic PIC change request and that any IXC (interexchange carrier) should be allowed to use the PIC process to change the primary IXC on any GTE network provided account. AT&T argued that as the local exchange carrier, AT&T should receive requests to implement PIC changes for its customers. GTE modified its position at the arbitration hearing, agreeing that GTE will reject IXC changes submitted by interexchange carriers for AT&T local service customers beginning January 1, 1997. GTE will accept PIC changes for AT&T customers only from AT&T.

The Commission finds this resolution of the manner of making PIC changes acceptable. The Commission further finds that the current PIC charge of \$3.92 is an appropriate surrogate for customers changing their LSP from GTE to AT&T.

24. What authorization is required for the provision of customer account information to AT&T?

GTE argues that its customer information is proprietary under the Act and should not be disclosed without written end user authorization. GTE believes that AT&T's marketing person should ask the customer for the vertical features subscribed to and confirm availability from SAG (street address guide) and Product and Service Guide. GTE believes converting accounts "as is" would encourage slamming because the "as is" process would discourage communication with the end user.

AT&T's position is that a customer's service record may be disclosed for the purpose of enabling the new carrier to provide service under the exception in § 222(d) of the Act. AT&T argues that GTE should not refuse to execute a change "as is" service order for a customer switching to AT&T local service. §§ 222(d), 251(c)(4); FCC Order ¶¶ 516-523.

OPC's position is that the incumbent LEC should not release customer account information without customer authorization. However, the nondisclosure should not serve as an excuse or obstacle to timely transfer of service between local exchange companies.

The FCC Order concludes that the incumbent LEC's Operations Support Services (OSS) are subject to nondiscriminatory access under § 251(c)(3) of the Act. The incumbent LEC must provide the same, nondiscriminatory access to OSS for pre-ordering, ordering, provisioning, maintenance and repair, and billing as the LEC provides itself. This includes information regarding the facilities and services assigned to individual customers. Requiring AT&T to have written authorization to access customer information would be discriminatory unless GTE requires written authorization for itself. Any additional requirement would be discriminatory and could be a barrier to entry. The Commission finds that

AT&T should have access to GTE's Operations Support Systems including customer account information on a nondiscriminatory basis. The Commission further finds that GTE should process account changes "as is." GTE failed to show that "as is" customer changes will result in an increase of slamming. Since "as is" customer changes would allow a customer to switch carriers with a minimum of disruption, it should be permitted.

25. Should GTE be required to perform loop testing on every new line under AT&T's standard of acceptance, and provide reports of test results to AT&T?

The parties have resolved this issue. See Attachment C (Stipulation Concerning Loop Testing).

26. Should GTE be required to provide dialing parity through presubscription, and if so, on what schedule?

The parties have reached agreement regarding dialing parity. See Attachment C (Stipulation Concerning Dialing Parity).

27. Should the contract include terms which require GTE to provide resold services, unbundled network elements, ancillary functions and interconnection on terms that are at least equal to those that GTE uses to provide such services and facilities to itself?

GTE's position is that the Act requires that GTE not discriminate between competitive providers in providing services for resale and access to unbundled elements. GTE states that it will provide the services it is required to offer under the Act in a nondiscriminatory manner and at the same quality standards applicable to its other customers.

AT&T argues that GTE must provide services that are equal in quality to those it provides itself, are subject to the same conditions, and are provided within the same provisioning time intervals, citing to FCC Regs. § 51.603 and § 51.311(b). AT&T also states that the quality of access to an unbundled network element must be superior to that which GTE provides to itself when AT&T requests this and it is technically feasible.

§ 251(c)(2), (c)(3) and (c)(4); FCC Order ¶¶ 66, 312-316; FCC Reg. § 51.311(c).

OPC's position is that GTE must provide AT&T and other new entrants with the same quality of service and facilities it provides to itself.

GTE's position is anticompetitive in that it could allow GTE to provide inferior services to its competitors which would severely limit their ability to compete. GTE must provide services that are equal in quality to those it provides itself. That is the essence of the Act's requirement of nondiscriminatory access. GTE must provide a quality of service superior to the service quality it provides itself if AT&T requests such services and it is technically feasible. AT&T's position is reasonable and consistent with the Act. However, when AT&T requests superior quality, then AT&T must compensate GTE for the enhancements necessary to insure that level of superior service.

28. Must GTE deploy its resale and unbundled offerings in specific time frames, with service guarantees, and provide for remedial measures for substandard performance?

GTE states that it will provide services on a nondiscriminatory basis but is not willing to meet unique standards for all services to AT&T local customers.

AT&T's position is that GTE should have to satisfy explicit performance and quality measures with accompanying remedial procedures. AT&T argues that without such processes GTE would be left to police itself. GTE, as a monopoly supplier/competitor, would have the ability to manipulate the service quality of its competitors in order to advance its own business interests. AT&T cites to § 252(c)(3), and FCC Order ¶¶ 55, 970.

OPC's position is that GTE must provide services in a time frame, and with service quality guarantees, as required under the Commission's quality of service rules so that a competing local exchange company can meet these standards and not be hindered in meeting them by GTE's action.

The Commission finds that GTE should provide time and service guarantees at least equal to those it provides to itself. To the extent that AT&T's requested standards exceed GTE's own standards, or to the extent that they exceed this Commission's standards, AT&T will bear the cost of the enhancements. The Commission approves AT&T's proposed contractual language for reciprocal reimbursement for loss of service and remedial measures for substandard performance. See AT&T's revised proposed Interconnection Agreement, I(5) Liability and Indemnity.

29. Should GTE be compelled to provide the same number of directory pages to AT&T as GTE has for its own use for branded service information?

The parties have resolved this issue. See Attachment C (Stipulation Concerning Directory Issues).

30. What unbundled network elements should be provided to AT&T?

The parties have reached some agreements regarding unbundled elements to be found in Attachment C to this Arbitration Order. To the extent the parties have not agreed, the Commission orders GTE to make available the following unbundled network elements without restriction: (1) local loop; (2) loop cross-connect; (3) network interface devices; (4) local switching; (5) tandem switching; (6) dedicated and common interoffice transport; (7) signaling and call related databases; (8) operations support systems; and (9) operator service and directory assistance. AT&T may not be required to own or control any of its own

local exchange facilities before it can purchase or use unbundled elements to provide a telecommunications service.

31. To what extent should AT&T be permitted to combine network elements?

See Issue 32, *infra*.

32. Should AT&T be permitted to request a combination of network elements which would enable it to replicate any services GTE offers for resale?

GTE states that "AT&T may lease and interconnect to whichever of these unbundled network elements AT&T chooses, and may combine these unbundled elements with any services or facilities that AT&T may itself provide, pursuant to the following terms: I. Interconnection for access to unbundled elements shall be achieved via expanded interconnection/collocation arrangements; II. AT&T shall maintain at the wire center at which the unbundled services are resident [*sic*]; III. Each loop or port element shall be delivered to AT&T collocation arrangement over a loop/port connector applicable to the unbundled services through other tariffed or contracted options; and IV. AT&T may combine unbundled network elements with AT&T's own facilities. AT&T shall not combine unbundled network elements purchased from GTE to bypass resale offerings." GTE argues that such a recombination of GTE's unbundled elements would eliminate the distinction in the Act between resale and unbundled elements and allow AT&T to avoid access charges.

AT&T's position is that there should be no restrictions on AT&T's ability to combine network elements. AT&T has requested a total of eight different combinations of unbundled elements: (1) Unbundled Network Element Platform with Operator Systems; (2) Unbundled Network Elements Platform without Operator Systems; (3) Loop Combination; (4) Loop/Network Combination; (5) Switching Combination No. 1; (6 - 8) three other network

element combinations would be subject to a Bona Fide Request process: Switching Combination No. 2, Switching Combination No. 3, and Switched Data Services. AT&T cites to § 251(c)(3), FCC Order ¶¶ 292-294, 328-329, and FCC Regs. §§ 51.309, 51.315.

OPC's position is that an incumbent LEC should not be able to restrict the ability of a new entrant to fashion leased elements in a network to provide competing service. OPC argues that such restrictions would defeat the benefit of competition to create efficient networks and reduce costs. The terms and conditions of the lease should not defeat the purpose of unbundling and should not pose a barrier to entry by creating unreasonable and artificial limitations on the use of elements.

GTE's attempt to restrict AT&T's ability to combine unbundled network elements in order to bypass resale offerings is in direct conflict with the Act, § 251(c)(3), which requires an incumbent to "provide such unbundled network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service." A CLEC should be able to provide services either through resale or through any technically feasible combination of unbundled network elements. The Commission finds that the terms and conditions of the interconnection agreement should not unreasonably restrict AT&T's ability to combine network elements. AT&T should not be prevented from combining purchased network elements to bypass resale offering.

33. Is sub-loop unbundling technically feasible, and if so, under what terms and conditions should it be offered?

The parties have reached some agreements regarding sub-loop unbundling to be found in Attachment C to this Arbitration Order. To the extent the parties have not agreed, the Commission orders GTE to make

available the following sub-loop elements without restriction: (1) loop distribution plant; (2) loop concentrator/multiplexer; and (3) loop feeder via a bona fide request process.

The parties shall submit proposed rates for these elements no later than December 31, 1996. The proposal must include the underlying assumptions, rationale, and supporting workpapers and any other documentation on which the proposal is based.

34. What should the unbundled switch element include?

GTE states that the switch element should include the port and that AT&T requests access to switch functions and features that go beyond the notion of unbundling contemplated by the Act. GTE argues that unbundling the switch as AT&T requests has numerous feasibility problems, including limitations on switch capacity, the substantial cost of modifying existing switches and the possibility that AT&T would be able to avoid access charges.

AT&T requests all features and functionalities inherent to the switch or switch software, including, without limitation, Advanced Intelligent Network ("AIN") triggers, citing FCC Order ¶¶ 412-413 and FCC Reg. § 51.319(c).

The Commission finds that GTE should offer the switch element pursuant to the FCC's definition: "We define the local switching element to encompass line-side and trunk-side facilities plus the features, functions and capabilities of the switch. The line-side facilities include the connection between a loop termination at, for example, a main distribution frame (MDF), and a switch line card. Trunk-side facilities include the connection between, for example, trunk termination at a trunk-side cross-connect panel and a trunk card. The features, functions, and

capabilities' of a local switch include the basic switching function of connecting lines to lines, lines to trunks, trunks to lines, and trunks to trunks. It also includes the same basic capabilities that are available to the incumbent LEC's customers, such as telephone number, directory listing, dial tone, signaling, and access to 911, operator services, and directory assistance. In addition, the local switching element includes all vertical features that the switch is capable of providing, including custom calling, CLASS features, and Centrex, as well as any technically feasible customized routing functions." FCC Order, ¶ 412.

The parties shall submit proposed rates for these elements no later than December 31, 1996. The proposal must include the underlying assumptions, rationale, and supporting workpapers and any other documentation on which the proposal is based.

35. Should GTE provide AT&T with access to its AIN, and if so, under what terms and conditions?

The parties have agreed on AT&T's access to GTE's AIN. See Attachment C (Stipulation Concerning Advanced Intelligent Network Issues).

36. Should GTE be required to exchange AIN transaction capabilities application part messages between GTE end offices and AT&T service control points via interconnection of AT&T's SS7 network to the GTE SS7 network?

To the extent that this issue is not resolved by Attachment C to this Arbitration Order (Stipulation Concerning Advanced Intelligent Network Issues) the Commission finds that AT&T should be allowed direct access to GTE's AIN triggers only where adequate mediation is in place.

37. Should GTE provide AT&T access to GTE's SS7 system, and if so, at what points and under what terms and conditions?

GTE has offered interconnection with its SS7 system at the signal transfer points (STP), but not at other points. GTE argues that access

to the service control points (SCP) and associated databases is technically feasible at this time only through the STP pair associated with that SCP.

AT&T's position is that SS7 should be broken apart and provided as 1) signaling links, 2) STPs and 3) access to SCP databases. AT&T relies on the FCC Order ¶¶ 479, 484 and 486 which require signaling links and STPs to be unbundled and provide that access to SCP call related databases used in an ILEC's AIN should be provided. See also FCC Reg. § 51.319(e)(1)(iii).

OPC believes access to GTE's SS7 network should be offered on the same terms and conditions as other elements.

The FCC has defined what types of access to GTE's SS7 network should be made available and there is no reason why GTE should not be required to grant such access. GTE must provide "nondiscriminatory access to their signaling links and STPs on an unbundled basis." FCC Order ¶ 479. The Commission finds that it is technically feasible for GTE to provide access to the LIDB (Line Information Data Base), the toll-free calling database and number portability downstream databases and that GTE must provide that access. Direct access to call-related databases is not required; access to call-related databases must be provided through interconnection at the STP. FCC Order ¶ 485.

38. Is GTE required to provide unbundled signaling elements (STP, access to SCP databases, links, etc.) at cost-based rates? Is access to GTE's SCP database an unbundled network element as defined in the Act?

GTE argues that unbundling the SS7 (Signaling System 7) system itself into discrete parts is not currently technically feasible, and would jeopardize the integrity of the network. Further, there are no technical standards for doing so. Direct access to GTE's SCP is not technically feasible.

AT&T argues that FCC Order ¶¶ 479, 484 and 486 requires signaling links and STPs to be unbundled and provides that access to SCP call-related databases used in an ILEC's AIN should be provided, citing to FCC Order ¶ 480.

OPC believes access to these elements should be offered on the same terms and conditions as other elements.

The FCC has found that ILECs, upon request, must provide nondiscriminatory access to their signaling links and STPs on an unbundled basis and has found that such unbundling is technically feasible. FCC Order ¶¶ 479, 483. The Commission finds that GTE must provide access to its SS7 network as directed by the FCC, and at TELRIC rates.

The parties shall submit their proposed rates for these elements no later than December 31, 1996. The proposal must include the underlying assumptions, rationale, and supporting workpapers and any other documentation on which the proposal is based.

39. Should AT&T have access to GTE's unused transmission media ("dark fiber")?

GTE's position is that dark fiber is not a facility or equipment used in the provision of telecommunications services and GTE should not be required to provide access to it.

AT&T argues that unused transmission media should be made available. AT&T states that there is a presumption in favor of unbundling if it is technically feasible, citing FCC Order ¶ 281. In addition, further unbundling beyond that specifically mandated is to be decided by the state commissions. FCC Order ¶ 427.

OPC asserts that it is in the public interest for unused dark fiber to be made available to new entrants. OPC argues that making dark

fiber available will facilitate the movement to competition and encourage efficient use of the existing network to benefit consumers and generate revenues for the incumbent from unused assets.

The Commission agrees with OPC that making dark fiber available to new entrants will promote efficiency and facilitate competition, benefiting service providers and end users. In addition, permitting access to an ILEC's dark fiber will encourage new entrants to develop facilities based services. Dark fiber satisfies the definition of a network element and its unbundling is technically feasible.

The Commission finds that some limitations on AT&T's use of GTE's dark fiber may be appropriate as a precautionary measure. GTE does place dark fiber to provide for growth, and inefficient use of that dark fiber by AT&T could cause premature depletion of the resource, requiring installation of additional fiber. The Commission finds, therefore, that GTE should offer dark fiber in the feeder segment of its loops as an unbundled element subject to the following conditions: GTE must offer its dark fiber to AT&T, but may offer it pursuant to agreements that would permit revocation of AT&T's right to use the dark fiber upon twelve months' notice by GTE. To exercise its right of revocation, GTE must demonstrate that the subject dark fiber is needed to meet GTE's bandwidth requirements, or the bandwidth requirement of another local service provider. GTE shall not be required to make available for lease more than 25 percent of its dark fiber capacity in a particular feeder segment. The fiber available for lease must be allocated among requesting CLECs on a first-come, first-served basis, and distributed in a competitively neutral manner. If GTE can demonstrate within a twelve month period after the date of a dark fiber lease that AT&T is using the leased dark fiber capacity at a level of

transmission less than optical carrier OC-12 (622.08 million bits per second), GTE may revoke the lease agreement with AT&T and provide AT&T a reasonable and sufficient alternative means of transporting the traffic.

GTE should offer dark fiber in the dedicated interoffice transport segment of the network as an unbundled element under the following conditions: GTE must offer its dark fiber to AT&T if it has collocation space in a GTE tandem or end office, but may offer it pursuant to agreements that would permit revocation of AT&T's right to use the dark fiber upon twelve months' notice by GTE. To exercise its right of revocation, GTE must demonstrate that the subject dark fiber is needed to meet GTE's bandwidth requirements, or the bandwidth requirement of another local service provider. GTE shall not be required to make available for lease more than 25 percent of its dark fiber capacity in a particular dedicated interoffice transport segment. The fiber available for lease must be allocated among requesting CLECs on a first-come, first-served basis, and distributed in a competitively neutral manner. If GTE can demonstrate within a twelve month period after the date of a dark fiber lease that AT&T is using the leased dark fiber capacity at a level of transmission less than optical carrier OC-12 (622.08 million bits per second), GTE may revoke the lease agreement with AT&T and provide AT&T a reasonable and sufficient alternative means of transporting the traffic.

The parties shall submit proposed rates for these elements no later than December 31, 1996. The proposal must include the underlying assumptions, rationale, and supporting workpapers and any other documentation on which the proposal is based. The parties shall also submit for approval a procedure for exchanging information on the availability of dark fiber for lease, and on the usage of leased dark fiber.

40. Should GTE be required to provide both dedicated and common local transport to AT&T on an unbundled basis?

GTE states that it will treat dedicated transport as a single item and make it available out of the access tariff. Common transport is available out of the access tariff. GTE argues that AT&T treats transport elements as an item to unbundle whereas they actually are interconnection items to which AT&T may have access.

AT&T's position is that dedicated and common transport should be unbundled and provided at TELRIC prices. FCC Order ¶¶ 440, 443, 444.

OPC's position is that the Commission need not decide this issue because it involves access and not local exchange service.

The Commission finds that common and dedicated transport for local traffic should be treated as unbundled elements and the compensation rates should be cost-based. The FCC Order distinguishes between "transport and termination of local traffic" and "access," and concludes that transport and termination of local traffic are governed by §§ 251(b)(5) and 252(d)(2) of the Act. Section 251(b)(5) requires reciprocal compensation arrangements between the incumbent and other LSPs. Section 252(d)(2) requires that the reciprocal compensation arrangement allow both parties to recover the costs associated with transport and termination for calls that originate on another carrier's network. The appropriate reciprocal compensation rates are addressed in Issues 4 and 5.